IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1058 OF 1990

Sippy Films Pvt.Ltd. ..Plaintiffs.

V/s.

Mahanagar Telephone Nigam Ltd. ..Defendants.

WITH

SUIT NO.1295 OF 1992

Mahanagar Telephone Nigam Ltd. & Anr. ..Plaintiffs.

V/s.

Sippy Films Pvt.Ltd. & Anr. ..Defendants.

None for the Plaintiff in Suit No.1058 of 1990 and Defendants in Suit No.1295 of 1992.

Ms.S.I.Shah for Defendants in Suit No.1058 of 1990 and for Plaintiffs in Suit No.1295 of 1992.

CORAM: A.M.KHANWILKAR,J

DATE : NOVEMBER 2, 2007.

P.C. :

1. None appears for the Plaintiffs in the former Suit/Defendants(private party) in the later suit. Both these suits pertain to claim in respect of telephone bills raised by the department-MTNL against the private party, in respect of the same telephone bills, of which private party is the subscriber. The private party disputed its liability to pay the amount as demanded by the MTNL department. Private

party filed the former suit amongst other to issue order against the department-MTNL to forebear from disconnecting their telephone for non-payment of balance outstanding amount towards disputed telephone bills.

2. The Department-MTNL on the other hand, has filed the later suit for recovery of amount against the defendant in relation to the self-same telephone bills and non-payment thereof by the Defendants(private party) by raising disputes in relation thereof. The fact remains that Defendants in the respective suits have filed Written Statements contesting the claim of each other. In that sense, dispute has been raised in relation to the telephone bills, which is squarely covered by provisions of Section 7B of the Indian Telegraphic Act. In such a situation, it is imperative to refer the parties to arbitration, which is a statutory remedy.

3. Taking overall view of the matter and having regard to the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager, Goa & Ors. vs. V.S.Dempo & Co. & Ors. reported in AIR 1996 SC 1545**, it is appropriate that the matter is referred to arbitration. The

reference to arbitration is for determination of disputes under Section 7B of the Act, which is a statutory remedy.

4. The Central Government shall notify the arbitrator before whom the present dispute will be tried and decided in arbitration. The MTNL-department to intimate competent Authority of the Central Government to take immediate steps to notify the arbitrator in terms of Section 7B of the Act. Such notification shall be issued within eight weeks from today.

5. The arbitrator so appointed shall conclude the arbitration proceedings as expeditiously as possible and in any case, not later than six months from the date he enters upon arbitration or the parties are expected to make first appearances before him, whichever is earlier.

6. It is made clear that all issues raised in the present Suit at the instance of either side shall be considered on its own merits in accordance with law in the arbitration proceedings.

7. In view of the above order, the Suit is

disposed of. Refund as per rules.

8. Counsel for the MTNL-department to forthwith inform the Counsel for the private party as well as the private party about the order passed today.

(A.M.KHANWILKAR,J)